

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

Elaine P. Caroleo,)	C.A. No.: 3:22-cv-565
)	
)	
Plaintiff,)	
)	
vs.)	COMPLAINT
)	
Hartford Life & Accident Insurance Co.,)	E.R.I.S.A. - NON-JURY
)	
)	
Defendants.)	
_____)	

Plaintiff Elaine P. Caroleo, by and through his undersigned counsel, complaining of the above-named Defendant Hartford Life and Accident Insurance Company would respectfully show unto this Honorable Court the following:

JURISDICTION AND VENUE

1. Plaintiff is a citizen and resident of Mecklenburg County, North Carolina.
2. Prior to her disability, Plaintiff Elaine P. Caroleo worked as a Registered Nurse for Novant Health, Inc., (hereinafter “Novant Health”) in Mecklenburg County, North Carolina..
3. At all times material to the allegations contained here, Plaintiff Elaine P. Caroleo was a participant in the Novant Health Long Term Disability Plan (hereinafter “the Plan”).
4. Novant Health created one or more employee welfare benefits plans for the purpose of providing long term disability (LTD) benefits to its employees.
5. Plaintiff is informed and believes that the name of the employee benefit plan in question is the Novant Health LTD Plan.

6. Defendant Novant Health established and/or maintained a policy of group insurance with Defendant Hartford Life and Accident Insurance Company, (hereinafter “Hartford”) in order to provide LTD benefits to its employees who chose to participate in the Plan.
7. Defendant Hartford is the insurer and claims administrator of the Plan.
8. Defendant Hartford is a fiduciary with respect to the Plan.
9. The Plan is governed by the Employee Retirement and Income Security Act of 1974 (hereinafter “ERISA”), 29 U.S.C. § 1001, *et seq.*
10. Pursuant to 29 U.S.C. § 1132(e), this Court has jurisdiction over Plaintiff’s claims.

FACTUAL ALLEGATIONS

11. Prior to her disability, Elaine P. Caroleo enrolled in the LTD Plan.
12. Elaine P. Caroleo’s last day at work was on or about September 21, 2020.
13. Beginning on September 21, 2020, Plaintiff was unable to perform the material and substantial duties of her Own Occupation as a Registered Nurse at Novant Health, due to various medical conditions.
14. After she became disabled, Plaintiff applied for LTD benefits.
15. On or about July 12, 2021, Defendant Hartford denied Plaintiff’s claim for LTD benefits, stating the Hartford had determined that Plaintiff did “not meet the policy definition of Disability.”
16. On March 4, 2022, Plaintiff timely appealed Hartford’s LTD denial decision and submitted voluminous medical records substantiating Plaintiff’s Disability from her Own Occupation as a Registered Nurse at Novant Health.
17. On May 1, 2022, Plaintiff accepted a less physically demanding job working for a new

employer.

18. On July 5, 2022, Defendant Hartford reversed its denial decision and approved Plaintiff's LTD claim.
19. On July 26, 2022, Defendant Hartford wrote to Plaintiff's undersigned counsel to advise that Hartford had subsequently decided that Plaintiff's claim was subject to a Pre-Existing Condition exclusion so that LTD benefits were not payable to Plaintiff.
20. Plaintiff has exhausted all administrative remedies under the Plan.

CAUSE OF ACTION

Plaintiff's Claim for LTD, pursuant to 29 U.S.C. §§ 1132(a)(1)(B)

21. Plaintiff incorporates all prior allegations herein, where not inconsistent, as if fully set forth herein.
22. Plaintiff became totally disabled from performing the material and substantial duties of her own occupation as a Registered Nurse at Novant Health from September 21, 2020 until the present.
23. Upon information and belief, Plaintiff is entitled to LTD benefits under the Plan from January 3, 2021 to May 1, 2022.
24. Plaintiff seeks LTD benefits under the terms of the Plan, to enforce her rights under the terms of the Plan pursuant to 29 U.S.C. §1132(a)(1)(B).
25. Plaintiff respectfully requests that the Court order each Defendant to pay all amounts due and owing for the Plaintiff's LTD benefits under the terms of the Plan pursuant to 29 U.S.C. § 1132(a)(1)(B).
26. Pursuant to 29 U.S.C. §1132(g), Plaintiff also respectfully requests that the court grant

Plaintiff's attorneys fees and costs.

WHEREFORE, Plaintiff Elaine P. Caroleo prays for judgment directing Defendant Hartford to pay Plaintiff's LTD benefits pursuant to the Hartford LTD Policy and the Novant Health Long Term Disability Plan, attorneys fees and costs, and all such further relief as the Court deems just and proper.

Respectfully Submitted,

s/John R. Peace

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